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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,719	03/04/2002	Thomas M. Shea	STM-17402/01	4808

7590 01/11/2005

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EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,719

Applicant(s)

SHEA, THOMAS M.

Examiner

Kofi A. Schullerbrandt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,11,13-15 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8,11,13-15 and 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This second Office Action is in response to Applicant's amendment received in the Office on January 13, 2004 in this case.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4, 5, 6, 8, 11, 13-15 and 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

All of the independent claims recite "said bracket comprising:". However, each claim also appears to positively recite, for example, details of the merchandise display or positively recite the bracket in relation to some other feature that also appears to not be positively recited. In other words, if only the bracket is being claimed, a number of the recited features below cannot be given patentable weight. A number of examples are set forth below.

Claims 1 and 2 recites "said bracket comprising:" which indicates that the features following will be features associated with the bracket. However, line 8 recites "extending beyond the vertically extending end cap in a substantially vertically coplanar and parallel fashion relative to the lengthwise extending wall". In other words, the bracket is described in relation to the "end cap" and the "lengthwise extending wall", neither of which is being claimed in claim 1. Because this claim is being interpreted as though Applicant is claiming the sub-combination of the bracket and not the combination

of the bracket and merchandise display. No weight can be given to the bracket features of claim 1 that are based on the bracket's relation to the unclaimed display.

In claim 5, it is unclear how the product support portion relates to the bracket of claim 19. In other words, does claim 19 further include the product support portion?

Regarding claim 8, it is unclear whether the bracket of claim 8 is the same bracket as in claim 1 or whether the bracket of claim 8 is a part of the bracket of claim 1. Correction or clarification is required.

Claim 19 recites "a product support portion" and "a plurality of individual merchandising items in substantially vertically coplanar and parallel extending and display fashion beyond the vertically extending end cap of the lengthwise extending wall". It is unclear which features are being positively claimed. In other words it is unclear which features are intended to be included in "said bracket comprising:". In the examiner's interpretation, the product support portion, the individual merchandising items and the relationship between the bracket and the cap have been given weight. If Applicant intended for these features not to be given weight Applicant should probably recite "for" or "adapted to" language to make it clear what is being claimed.

Claim 22 recites the limitation "said planar base" in line 10. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

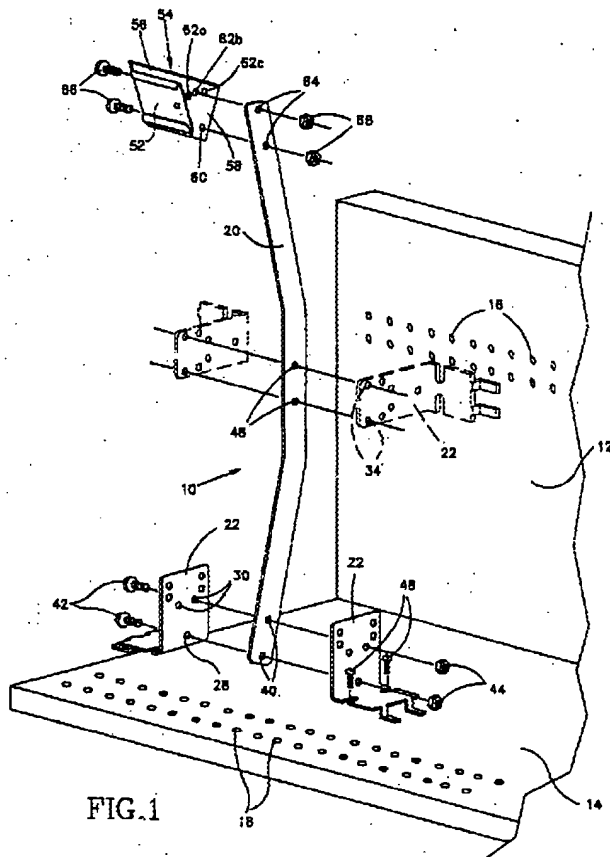
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

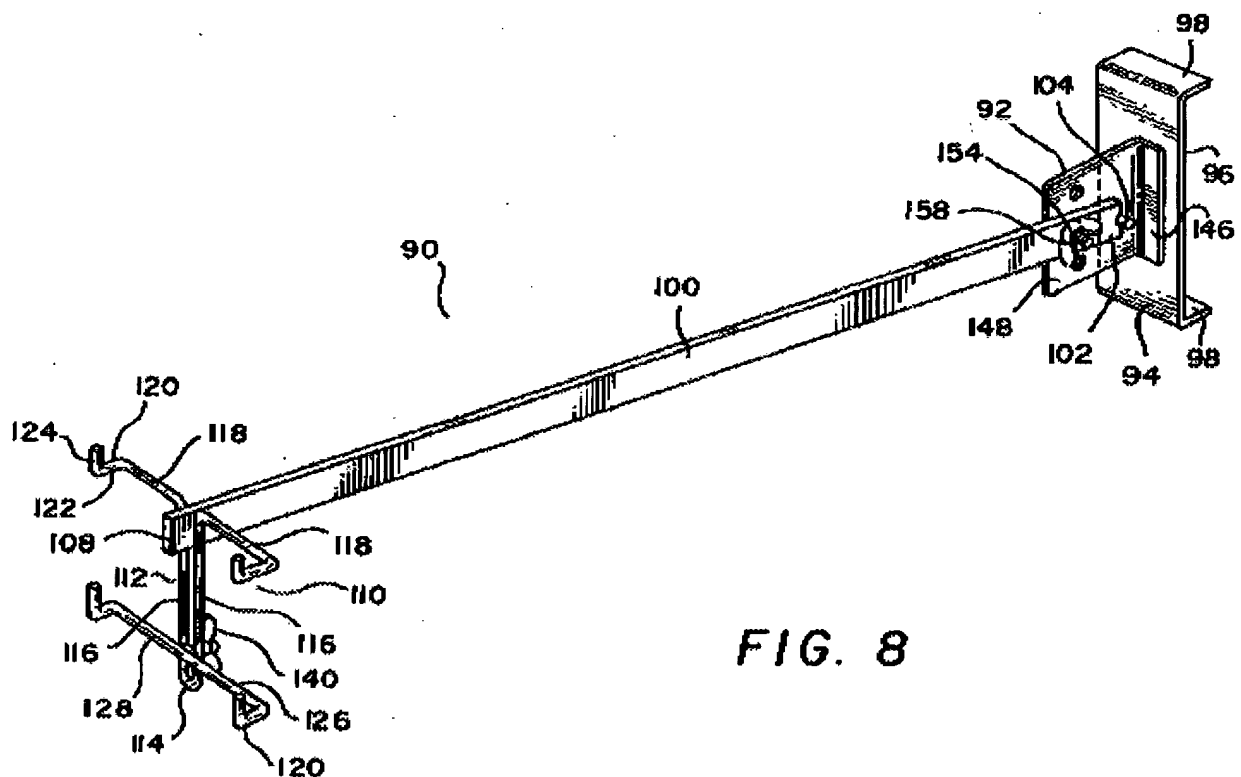
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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sainato (4,854,533). Sainato teaches each feature of the claimed invention as shown below. Sainato teaches an elongated support arm (20) having a first support end (40, Figure 1) and a second display end (54, Figure 1), a foot support (22), the arm axially adjustable relative to the foot (See Figures 7b and 7g where the axis is in the direction of the nuts and bolts 42 and 44), a planar support surface (inside surface of 22 contacting 20 when assembled), and a channel (between the two planar surfaces of the two parts of 22).



Claims 11 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiggins (5,913,499). Kiggins teaches each feature of the claimed invention as shown below. Kiggins teaches an elongated support arm (100) having a first support end (102, 92) and a second display end (108), a planar support surface (contact surface between 100 and 92), a channel (30a-c), a fastener stem (54) a wing nut (56), and a slot engagement portion (portion of the fastener stem 54 that is in the channel on assembly).



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 2, 4, 5, 6, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shea (5,957,422), in view of Hambleton (6,273,385). Shea teaches, substantially, each feature of the claimed invention. Shea does not teach an S-hook. Hambleton, however, also teaching an elongated extension arm, shows a S-hook (22) for suspending an object. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Shea's members (138, Figure 5) to be S-hooks in order to more easily attach and detach items therefrom. Regarding claim 4, the hanger is made of metal (See col. 2, ln. 46). Regarding claim 5, Shea teaches a plurality of individual merchandise items (92). Regarding claim 6, Shea teaches a display card (74, Figure 4).

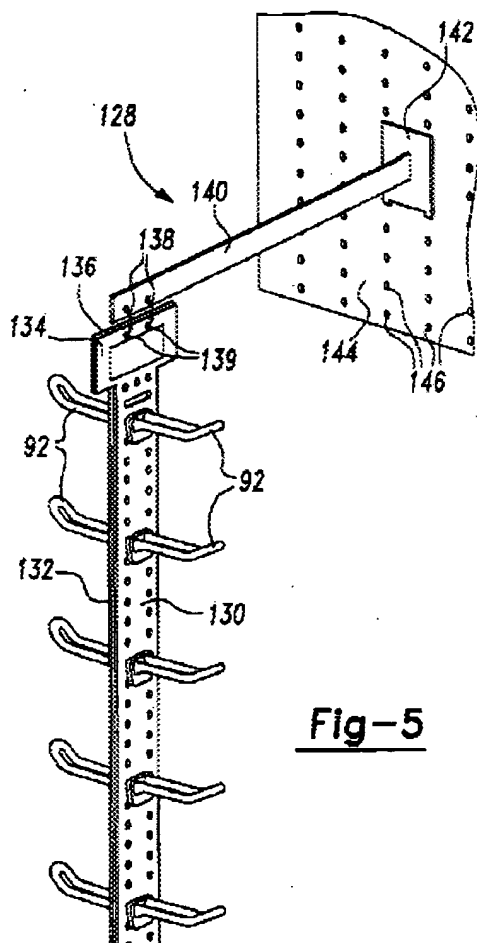
Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea (5,957,422), in view of Zarrow et al. (6,349,909). Shea teaches, substantially, each feature of the claimed invention as discussed above. Shea teaches tabs (142), but does not teach upwardly angled tabs and tabs extending from the lower edge of the planar support surface. Zarrow et al. clearly teaches the claimed tabs. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified

Shea's planar support surface to have the claimed tabs as a number of tab arrangements would perform satisfactorily for the claimed purpose.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sainato (4,854,533). Sainato teaches, substantially, each feature of the claimed invention as discussed above. Sainato does not teach rectangular nuts. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Sainato's nuts to be rectangular as a number shapes would perform satisfactorily of the claimed purpose.

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**5,957,422**





***Examiner's Response to Applicant's Remarks***

Applicant's arguments with respect to claim 1, 2, 4-6, 8, 11, 13-15 and 19-22 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

As best as the claims can be understood, claims 13-15 and 24-26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Reasons for Indicating Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter: As best as can be understood, regarding claims 13-15 and 24-26, the prior art of record does not teach, in combination with the other features of claim 26, a product display end further comprising an "S" hook suspended through an aperture defined within the support arm, a product support portion suspending from the "S" hook and holding a plurality of individual merchandising items in substantially coplanar and parallel extended and display fashion.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703)

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306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kofi Schulterbrandt  
January 10, 2005